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April 2, 2008

Via Email and U.S. Mail

The Honorable Joseph J. Farnan, Jr.
 United States District Court
 for the District of Delaware
 844 North King Street
 Room 4209, Lock Box 27
 Wilmington, DE 19801

RE: *Carter v. Independent Productions, Inc., et al.*
C.A. No. 07-418 (JJF)

Dear Judge Farnan:

I write on behalf of all parties in this action. Pursuant to (D.I.12) the parties have filed a proposed scheduling order for Your Honor's consideration. In an effort to resolve this matter in a cost effective, expeditious manner, the parties have agreed to mediate their dispute within the next ninety days. Consequently, the dates in the proposed scheduling order are designed to allow the parties to engage in this process while avoiding potentially unnecessary litigation costs.

Counsel are available to answer any questions the Court might have.

Respectfully,

James D. Heisman

cc: Richard I.G. Jones, Jr., Esq. (via email)
 Gordon P. Katz, Esq. (via email)

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|----------------------------------|---|-----------------------|
| HENRY G. CARTER, an individual, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. NO. 07-418 (JJF) |
| |) | |
| INDEPENDENT PRODUCTIONS, INC., |) | |
| a Pennsylvania corporation, and |) | |
| GEORGE THOROGOOD & THE |) | |
| DESTROYERS, INC., a Pennsylvania |) | |
| corporation, |) | |
| |) | |
| Defendants. |) | |

RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by June 30, 2008 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.1.
2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before July 30, 2008.
3. **Discovery.**
 - (a) Exchange and completion of interrogatories, identification of all fact witnesses and document production shall be commenced so as to be completed by December 30, 2008.
 - (b) Maximum of 15 interrogatories by each party to any other party.
 - (c) No limit on requests for admission by each party to any other party.

- (d) Maximum of 10 depositions by plaintiff and 10 by defendants.
- (e) Fact discovery shall be concluded by March 30, 2009.
- (f) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2)

are due from the party with the burden of proof on the issue the expert is offered by April 14, 2009.

(g) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

4. Non-Case Dispositive Motions.

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The hearing date selected shall allow time for filing of the motion, allow for briefing in accordance with the Federal and Local Rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be heard. Available motion dates will be posted on the Court's website at:

<http://www.ded.uscourts.gov/JJFmain.htm>.

(b) At the motion hearing, each side will be allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by-email at: jjf_civil@ded.uscourts.gov

5. Amendment of the Pleadings. All motions to amend the pleadings shall be filed on or before August 29, 2008.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before April 30, 2009. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court.

7. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on Procedures for filing non-dispositive motions in non-patent cases (pro se cases excluded). Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

8. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is

deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

DATE

UNITED STATES DISTRICT JUDGE

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